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Department of the Treasury
Internal Revenue Service

Notice 894

(August 1989)

Notice To Employers About Employee Business Expenses

Beginning in 1989, new rules apply to amounts you pay your employee for business expenses. Under section 62(c) of the Internal Revenue Code, you must report amounts paid to your employee for business expenses as wages in box 10 of Form W-2, Wage and Tax Statement, if: **(1)** your employee is not required to **or** does not substantiate those expenses to you (i.e. furnish receipts or other documentation), or **(2)** you advance an amount to your employee for business expenses and your employee is not required to **or** does not return any amount he or she does not use for business expenses.

If your employee substantiates all of his or her business expenses to you **and** returns any excess, **do not include these amounts as wages on your employee's Form W-2.**

If you reimburse your employee a per diem or other fixed allowance amount (that is similar in form to an allowance specified by the Federal Government and the employee establishes the time, place and business purpose of the expense) and the reimbursement exceeds the government specified rates (that is, the standard mileage rate for auto expenses and the government per diem rate for travel away from home), include as wages in box 10 on Form W-2 **only** the amount that is more than the government specified rates. Also, show in box 16 the amount that is **equal** to the applicable government specified rate. Label the amount in box 16 "EBE" (for employee business expenses). If the amount you reimburse your employee is the same as or less than the government specified rates (and the employee establishes the time, place and business purpose of the expense) do not include that reimbursement on Form W-2.

Unsubstantiated business expenses or unreturned excess amounts are generally subject to income tax withholding, social security taxes, and Federal unemployment tax as stated in the 1989 instructions for Form W-2. However, for

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1989, if you reasonably believe that your employee used an amount for business purposes, those amounts are **not** subject to income tax withholding, social security taxes, and Federal unemployment tax even though the amount was an unreturned excess or was not substantiated. In these cases, the amounts paid to your employee should still be reported on Form W-2 in box 10 as other compensation not subject to withholding. Return to your employee any amount of social security tax you withheld on excess amounts for employee business expenses or amounts not substantiated that you reasonably believe were used for business expenses. You can make an adjustment of social security taxes on Form 941, Employer's Quarterly Federal Tax Return. If you are not able to adjust any social security taxes, you may be able to claim a refund by filing Form 843, Claim.

The Federal per diem rates are published periodically by the General Services Administration in the Federal Travel Regulations. These rates will also be published in the January 1990, Circular E, Employer's Tax Guide. The Service will issue guidance on reporting employee business expenses for 1990 at a later date.

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